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REMARKS

This is in response to the Office Action mailed on February 8, 2007. Claims 14-24 and 26 were withdrawn from consideration and are now canceled. Claims 1, 2, 11-13 and 25 are allowed. Claims 3-10 were rejected. Claims 3, 6 and 10 are amended. Claims 1-13 and 25 are in this case.

The drawings were objected to. Reconsideration of the objection is respectfully requested in view of the following.

Objections to drawings

The Examiner objected to the drawings under 37 CFR 1.83(a) with respect to features in claims 3-11.

According to the M.P.E.P., "[a]ny structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing." M.P.E.P. § 608.02(d). Applicants respectfully assert that structural detail of a method for scene modeling as recited in claims 3-11 is *not* essential for a proper understanding of the aspects of the invention recited by these claims.

The M.P.E.P. also instructs: "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)." M.P.E.P. § 601.01(f). Applicants, therefore, respectfully request reconsideration and withdrawal of the drawing objections as they relate to method claims 3-11.

Claim Rejection Under 35 U.S.C. § 103

The Examiner rejected claims 3-10 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lee US PGPUB 2003/0058237 (hereafter "Lee") in view of Simoncelli, Eero, "Bayesian Multi-Scale differential Optical Flow" in Handbook of Computer Vision and Applications, Academic Press, Vol. 2 pp 397-422 (hereafter Simoncelli).

Claims 3-5

According to the Examiner "higher dimensional" is equivalent to "multiple layers" as disclosed by Lee. Lee teaches in paragraph [0031] that "... in a preferred probabilistic framework, images (i.e., two-dimensional array of pixel appearances) are interpreted as samples drawn from a high-dimensional random process. In this process, the number of pixels of the image defines the number of dimensions." The Applicant specifically teaches "higher dimensional" to mean a higher number of variable properties rather than objects for creating a measure of probability. This aspect can be found throughout the specification. A specific example can be found for instance in paragraph [0069] wherein a higher dimensional space has a dimension 5 formed by two components for the flow and three components for the intensity in the normalized color space for obtaining an estimate of the probability distribution. Lee does not teach or suggest including a flow component as a dimension in a representation.

As concluded by the Examiner in paragraph 12 of the Office Action under Allowable subject Matter, Simoncelli discloses a probability distribution with two flow components that are not in a joint 5-dimensional space, the other dimensions being color intensities. Thus, Simoncelli does not teach or suggest a higher dimensional space with a color component and a low component as a dimension.

Accordingly neither Lee nor Simoncelli teaches or suggests the method of claim 3 comprising a higher dimensional space with a color component and a flow component as a dimension. Accordingly the allowance of claim 3 and claims 4 and 5 which depend from claim 3 is respectfully requested.

Claim 6-10

The use of the concept of dynamic background in Lee is different from the use of a dynamic background in the present invention. For instance Lee in paragraph [0072] discloses a couch being moved and a pillow on the couch being moved as being part of a dynamic background. The present invention discloses a dynamic background throughout the specification and for instance in paragraph [0009] as including ocean waves, waving trees, rain and moving clouds, which display essentially non-stationary properties in time. Claim 6 as amended, reflects this aspect of the background being substantially continually dynamic. Lee discloses a background wherein an object is not moving continually and accordingly is substantially static. Lee does not disclose a background wherein objects are substantially continually in motion.

Accordingly Lee does not teach or disclose the method of claim 6. Accordingly the allowance of claim 6 and claims 7-10 which depend from claim 6 is respectfully requested.

Claim 10

Claim 10 has been amended to correct a typographical error. The article "A" was added.

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (732 321 3191) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No.

Respectfully submitted,

Date 3/19/2007

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